

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



/S/ RUSS KENDIG

Russ Kendig
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:

LARRY DUANE SUGASKI AND
EMMA JEAN SUGASKI,

Debtors.

) CHAPTER 7

) CASE NO. 07-63732

) JUDGE RUSS KENDIG

) **MEMORANDUM OF OPINION**
) **(NOT INTENDED FOR**
) **PUBLICATION)**

On May 29, 2011, Richard H. Nemeth, attorney for Debtors, filed an application for compensation from the bankruptcy estate. He seeks a total of \$7,777.23: \$7,707.23 in fees and \$70.00 in expenses. Josiah L. Mason, chapter 7 trustee, objected to the application. Although a hearing was scheduled, it was not held because the parties reached an agreement whereby the trustee agreed to pay Mr. Nemeth \$500.00 from the estate. The parties submitted an agreed order.

The court has jurisdiction of this proceeding pursuant to 28 U.S.C. § 1334 and the general order of reference entered in this district on July 16, 1984. Venue in this district and division is proper pursuant to 28 U.S.C. § 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (B) and/or (O).

This opinion is not intended for publication or citation. The availability of this opinion, in electronic or printed form, is not the result of a direct submission by the Court.

Upon review of the application, the court must deny it in its entirety under the Supreme Court's decision in Lamie v. United States Trustee, 540 U.S. 526 (2004). There, the Court stated that "§ 330(a)(1) does not authorize compensation awards to debtors' attorneys from estate funds, unless they are employed as authorized by § 327. If the attorney is to be paid from estate funds under § 330(a)(1) in a Chapter 7 case, he must be employed by the trustee and approved by the court." Lamie at 539; *accord* Clippard v. Hilburn's Paint and Body Shop, Inc. (In re Hilburn's Pain and Body Shop, Inc.), 2004 WL 953760 (6th Cir. 2004) (unpublished). Mr. Nemeth was not employed by the trustee on behalf the estate. The

fact that any of his work may have benefitted the estate is immaterial.

An order will be entered immediately.

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Service List:

Richard H Nemeth
526 Superior Ave NE
#410
Cleveland, OH 44114

Josiah L Mason
153 W Main St
PO Box 345
Ashland, OH 44805-2219